

IN THE UNITED PATENT AND TRADEMARK OFFICE

Attorney's Docket No.: LVN-08202/03

■ In re application of: Levine

Serial No.:

Group No.:

Filed:

Examiner:

For: TELEVISION SYSTEM MODULE WITH REMOTE CONTROL CODE DETERMINATION

□ Patent No.:

Issued:

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL
ENTITY STATUS (37 CFR 1.9(c-f) and 1.27(b-d))

With respect to the invention described in

- ☒ the specification filed herewith.
☐ application Serial No. _____, filed _____
☐ patent no. _____, issued _____

I. IDENTIFICATION OF DECLARANT AND RIGHTS AS A SMALL ENTITY

I hereby declare that I am

(a) Independent Inventor

- ☐ a below named independent inventor and that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code to the Patent and Trademark Office.

(b) Non-inventor Supporting a Claim by Author

- ☐ making this verified statement to support a claim by _____
 for a small entity status for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code and I hereby declare that I would qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, I had made the above identified invention.

(c) Small Business Concern

- ☐ the owner of the small business concern identified below.
☒ an official of the small business concern empowered to act on behalf of the concerned identified below.

NAME OF CONCERN Smart VCR Limited Partnership
 ADDRESS OF CONCERN 280 N. Woodward Ave., Suite 400
Birmingham, MI 48009

and that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on

a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

(d) Non-Profit Organization

- ☐ an official empowered to act on behalf of the non-profit organization identified below:

NAME OF CONCERN _____

ADDRESS OF CONCERN _____

TYPE OF ORGANIZATION

- ☐ UNIVERSITY OR OTHER INSTITUTE OF HIGHER EDUCATION
☐ TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 USC 501(a) and 501(c)(3))
☐ NON-PROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA
(NAME OF STATE _____)
(CITATION OF STATUTE _____)
☐ WOULD QUALIFY AS TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 USC 501(a) and 501(c)(3)) IF LOCATED IN THE UNITED STATES OF AMERICA
☐ WOULD QUALIFY AS NON-PROFIT SCIENTIFIC OR EDUCATION UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA IF LOCATED IN THE UNITED STATES OF AMERICA
(NAME OF STATE _____)
(CITATION OF STATUTE _____)

and that the non-profit organization identified above qualifies as a non-profit organization as defined in 37 CFR 1.9(e) for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code.

II. OWNERSHIP OF INVENTION BY DECLARANT

I hereby declare that rights under contract or law remain with and/or have been conveyed to the above identified

☐ person
(item (a) or (b) above)

☒ concern
(item (c) above)

☐ organization
(item (d) above)

EXCEPT, that if the rights held are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held (1) by any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, (2) any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or (3) a non-profit organization under 37 CFR 1.9(e).

- ☒ no such person, concern, or organization
☐ person, concerns or organizations listed below*

**NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)*

FULL NAME _____
ADDRESS _____

☐ Individual ☐ Small Business Concern ☐ Non-Profit Organization

FULL NAME _____
ADDRESS _____

☐ Individual ☐ Small Business Concern ☐ Non-Profit Organization

III. ACKNOWLEDGEMENT OF DUTY TO NOTIFY PTO OF STATUS CHANGE

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

IV. DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

V. SIGNATURES

(complete only (e) or (f) below)

(e)

NOTE: All inventors must sign the verified statement

Name of Inventor

Date

Signature of Inventor

Name of Inventor

Date

Signature of Inventor

OR

(f)

NOTE: The title of the person signing on behalf of a concern or non-profit organization should be specified.

NAME OF PERSON SIGNING Michael R. Levine

TITLE OF PERSON General Partner

ADDRESS OF PERSON SIGNING 2122 S.W. 60th Circle

Boca Raton, FL 33496

SIGNATURE Michael Levine DATE 9/16/96

Attorney's Docket No. LVN-08202/03**PATENT**

REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY (BY INVENTOR(S) OR ASSIGNEE)

(complete A or B)

A. ☒ DECLARATION BY THE INVENTOR(S)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (*if only one name is listed below*) or an original, first and joint inventor (*if plural names are listed below*) of the subject matter that is described and claimed in letters patent number 5,365,282, granted on November 15, 1994, and in the foregoing specification, and for which invention I solicit a reissue patent.

B. ☐ DECLARATION BY ASSIGNEE

NOTE: The assignee of the entire interest may make the declaration, if the reissue application does not seek to to enlarge the scope of the claims of the original patent, 37 CFR 1.172.

(type or print name of declarant)

Title

of

Name of company or legal entity on whose behalf declarant is authorized to sign

declare that I am a citizen of _____ and resident of _____

_____, that the entire title to letters patent number _____

for _____

granted on _____, 19____ to _____

Inventor(s)

is vested in _____

Name of company or legal entity

that I believe said named inventor(s) to be an original, first and sole inventor (*if only one name is listed*) or an original, first and part inventor (*if plural names are listed*) of the subject matter that is described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent.

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND STATEMENT OF CANDOR
(37 CFR § 1.175(a)(7))

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims.

I acknowledge the duty to disclose information that is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent.

- ☐ In compliance with this duty, there is attached an information disclosure statement in accordance with 37 CFR 1.98.

PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

(complete C or D)

- C. ~~XX~~ No such applications have been filed.
D. ☐ Such applications have been filed as follows:

EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION				
Country	Application No.	Date of filing (day, month, year)	Date of issue (day, month, year)	Priority Claimed
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>
				<input type="checkbox"/> YES NO <input type="checkbox"/>

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION

BENEFIT OF PROVISIONAL APPLICATION

**STATEMENT OF INOPERATIVENESS OR INVALIDITY
OR INVALIDITY OF ORIGINAL PATENT**

(37 CFR 1.175)

That I verily believe the original patent to be

☒ partly

☐ wholly

inoperative or invalid because of error without any deceptive intent on the part of the applicant. (37 CFR 1.175(a)(6).

The statement below specifies the errors relied upon, and how they arose (37 C.F.R. § 1.175(a)(5)).

☒ why the original patent is believed to be wholly or partly inoperative or invalid (37 C.F.R. § 1.175(a)(1));

☐ particularly the defects upon which the claim that such patent is inoperative or invalid "by reason of a defective specification or drawing" is based (37 C.F.R. § 1.175(a)(2)); and or

☒ distinctly the excess or insufficiency in the claims that make the patent inoperative or invalid "by reason of the patentee claiming more or less than he had a right to claim in the patent." (37 C.F.R. § 1.175(a)(3)).

☐ Corroborating affidavits or declarations of others accompany this declaration. (37 C.F.R. § 1.175(b)).

**STATEMENT OF INOPERATIVENESS
OR INVALIDITY OF ORIGINAL PATENT**

NOTE: This statement must:

- (1) include the reasons why the applicant verily believes the original patent to be wholly or partly inoperative (37 C.F.R. § 1.175(a)(1));
- (2) particularly specify the defects, when it is claimed that the original patent is inoperative or invalid "by reason of a defective specification or drawing" (37 C.F.R. § 1.175(a)(2));
 - (a) distinctly specifying the excess or insufficiency in the claims when it is claimed that the original patent is inoperative or invalid "by reason of the patentee claiming more or less than he had the right to claim in the patent" (37 C.F.R. § 1.175(a)(3)); and
 - (b) "particularly specifying the errors relied upon, and how they arose or occurred" (37 C.F.R. § 1.175(a)(5)).

My U.S. Patent No. 5,365,282 is partly inoperative by reason of claiming more than I had the right to claim in the patent. Recently, I was provided with a copy of U.K. Patent Application GB 2 262 374 A, a copy of which is attached herewith, which appears to disclose certain of the subject matter previously claimed in my '282 patent. In particular, this application, which has a priority date of 1991 and precedes my priority date, teaches apparatus which can automatically determine the proper control code format for a cable box by issuing a channel change command and observing if the cable box responds to such command. I have therefore amended and included in this reissue application additional claims which, in my opinion, distinguish from this newly discovered reference. In particular, independent claim 1 has been amended to include energization determination in response to a test control code. Independent claim 11 also now includes language having to do with energization, and newly added claims 16-22, which are based upon independent claim 16, are directed to a remotely controllable television receiver, an associated unit not considered by the U.K. patent application submitted herewith. The discovery of this U.K. patent application arose without any deceptive intention on my part, and I am submitting this reference as part of my continuing duty to disclose to the Patent Office all information known to me to be material to patentability.

(use supplemental page(s), if necessary)

POWER OF ATTORNEY

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Ernest I. Gifford (Reg. No. 20,644)
 Allen M. Krass (Reg. No. 18,277)
 Irvin L. Groh (Reg. No. 17,505)
 Douglas W. Sprinkle (Reg. No. 27,394)
 Alfred L. Patmore, Jr. (Reg. No. 19,145)
 Douglas J. McEvoy (Reg. No. 34,385)
 Nancy M. Klembus (Reg. No. 40,051)

Thomas E. Anderson (Reg. No. 31,318)
 Ronald W. Citkowski (Reg. No. 34,732)
 Judith M. Riley (Reg. No. 30,311)
 Theresa A. Orr (Reg. No. 34,890)
 Ellen S. Cogen (Reg. No. 38,109)
 John G. Posa (Reg. No. 37,424)
 Avery N. Goldstein (Reg. No. 39,204)

SEND CORRESPONDENCE TO:

John G. Posa
 GIFFORD, KRASS, GROH, SPRINKLE,
 PATMORE, ANDERSON & CITKOWSKI, P.C.
 280 N. Woodward Ave.
 Suite 400
 Birmingham, MI 48009

DIRECT TELEPHONE CALLS TO:

John G. Posa
 (313) 913-9300

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature(s)

☒ BY THE INVENTOR(S)

Full name of sole or first inventor MICHAEL R. LEVINE

Inventor's signature Michael R. Levine

Date 9/6/96 Country of Citizenship US

Residence Boca Raton, Florida

Post Office Address 2122 S.W. 60th Circle

Boca Raton, Florida 33496

Full name of second joint inventor, if any _____

Inventor's signature _____

Date _____ Country of Citizenship _____

Residence _____

Post Office Address _____

☐ BY ASSIGNEE ☒ PERSON AUTHORIZED TO SIGN ☒ HALF OF AS-SIGNEE

NOTE: Even though inventor(s) do not sign, complete above information for inventor(s).

(complete the following, if applicable)

Smart VCR Limited Partnership

(type name of assignee)

280 N. Woodward Ave., Suite 400

Address of assignee

Birmingham, MI 48009

Michael R. Levine, Partner

Title of person authorized to sign on behalf of assignee-

☒ Assignment recorded in PTO on January 19, 1993

Reel 6400

Frame 0776

☐ A separate ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET",
or ☐ FORM PTO 1595 is submitted herewith along with the
assignment _____

CERTIFICATION BY ASSIGNEE

☐ Attached is a "CERTIFICATE UNDER 37 CFR 3.73(b)," establishing the right of the assignee to take action in this reissue.

Signature of assignee or person authorized to
sign on behalf of assignee

(check proper box(es) for any added page(s) forming a part of this declaration)

- ☐ Signature for third and subsequent joint inventors. Number of pages added. _____
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added. _____
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. Number of pages added. _____
- ☐ Statement of inoperativeness or invalidity of original patent. 37 CFR 1.175. Number of pages added _____
- ☐ Authorization of attorney(s) to accept and follow instructions from representative.
- ☐ Corroborating affidavits or declarations of others. 37 C.F.R. 1.175(b).